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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,910	08/30/2006	Sadamu Iwanaga	90606.125/ym	8296
54071	7590	06/24/2008	EXAMINER	
YAMAHA HATSUDOKI KABUSHIKI KAISHA C/O KEATING & BENNETT, LLP 8180 GREENSBORO DRIVE SUITE 850 MCLEAN, VA 22102				CENTOLANZI, PATRICK M
ART UNIT		PAPER NUMBER		
		4165		
			NOTIFICATION DATE	DELIVERY MODE
			06/24/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JKEATING@KBIPLAW.COM  
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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/559,910	IWANAGA, SADAMU	
	<b>Examiner</b>	<b>Art Unit</b>	
	PATRICK CENTOLANZI	4165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 December 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 14-26 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 14-22, 25 and 26 is/are allowed.  
 6) Claim(s) 23 and 24 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 12/08/05 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/08/05</u> .  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

This action is the first on the merits of the instant application received December 8, 2005. Claims 14 through 26, as preliminarily amended in the original filing, are pending.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishii (6,588,529) in view of Tanabe (6,860,359).

As per Claim 23, Ishii teaches a motorcycle (1, Figure 1) comprising:  
a seat (8, 9, 11, Figure 1) arranged above a rear wheel (3, Figures 1 and 4);  
an exhaust system (Figure 24) including a muffler (131) and an exhaust pipe (149); and  
a lock arm placing section (container box 163) arranged to house a lock arm having left  
and right arm sections and a coupling section (172) for theft prevention of the  
motorcycle (Column 12, Lines 19 to 24); wherein  
the lock arm placing section is arranged under the seat and in front of the muffler (the  
helmet (165) is at the front of locking device (172), which is located at the rear of  
crankcase transmission assembly (39), which is located in front of the muffler (131),  
Figures 4, 5, and 6), and the lock arm placing section is arranged to house the lock arm

in a position in which the lock arm is displaced to one side of a center line in a motorcycle width direction (Figure 30); and the exhaust pipe is substantially parallel to the lock arm placing section in the motorcycle width direction, and a section of the exhaust pipe where the exhaust pipe and the lock arm placing section are substantially parallel is bent to an opposite side of the center line than the lock arm placing section (Figures 4 and 24).

However, Ishii fails to explicitly disclose the muffler arranged between the seat and the rear wheel.

Tanabe teaches a motorcycle with a muffler (55) arranged between the seat (52) and the rear wheel (57).

Therefore, from the teaching of Tanabe, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the motorcycle of Ishii to include a muffler arranged between the seat and the rear tire as taught by Tanabe. This would help prevent the rider from being burned by the hot muffler.

As per Claim 24, Ishii further teaches the motorcycle according to claim 23, wherein a connecting section of the exhaust pipe and the muffler is displaced to one side of the center line (Figure 24, 149).

#### ***Allowable Subject Matter***

3. Claims 14 through 22, 25, and 26 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter:

Claims 14 through 21: The prior art or record does not teach nor suggest a motorcycle in which a locking device can be stored wherein the right and left arm sections of the locking device are located on both sides of the spring unit.

Claim 22: The prior art or record does not teach nor suggest a motorcycle in which a locking device can be stored such that the locking device is located lower than the muffler.

Claims 25, and 26: The prior art or record does not teach nor suggest a motorcycle in which a locking device can be stored such that a portion of the locking device is outside of the seat rails.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

European Patent Application 1 640 256 A1, by the same inventor, describes this invention.

US Patent 6,889,789 describes a locking device stored on a motorcycle between the seat and the muffler.

US Patent 6,170,593 describes a locking device stored on a motorcycle vertically, under the seat.

US Patent 5,560,445 describes a locking device stored on a motorcycle under the seat.

US Patent 4,436,232 describes a locking device stored externally.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PATRICK CENTOLANZI whose telephone number is (571) 270-5791. The examiner can normally be reached on Mondays - Thursdays, 7:30 AM - 5:00 PM; Selected Fridays, 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on (571) 272-6782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PATRICK CENTOLANZI  
Examiner  
Art Unit 4165

PMC 06/18/08

/Lynda Jasmin/

Supervisory Patent Examiner, Art Unit 4165

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